

FISCAL NOTE

HB 3403 - SB 3364

February 28, 2004

SUMMARY OF BILL: Provides the following regarding identity theft and criminal simulation:

- Broadens the scope of the definition of personal identifying information for the purpose of prosecuting identity theft;
- Recognizes that multiple persons or businesses can be the victim of the theft of one person's identity;
- Differentiates between using another person's identifying information for personal use, which is a Class D felony offense under current law, and selling, transferring, or delivering the personal identifying information to another, identity theft trafficking, which will be a specific new Class C felony offense created by the bill;
- Broadens the scope of the crime of criminal simulation, which is a Class E felony offense, to include the manufacture, distribution, purchase, transfer, sale, or possession of a tool, apparatus, instrument, or machine with the intent to commit identity theft;
- Provides that a person who is the alleged victim of identity theft may sign a written authorization waiving privacy provisions and consent to disclosure of any records maintained by a public or private entity to a law enforcement agency within a specified timeframe. The entity will have no obligation to notify the person who caused the record to be created;
- Specifies the manner in which the custodian of records, public or private, must destroy personal identifying information when disposing of records. Provides a civil penalty of \$500 for each record improperly discarded, not to exceed \$10,000.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - \$667,900/Incarceration*

Increase State Expenditures - \$562,900 Recurring

\$ 99,400 One-time

Increase State Revenues - Not Significant

Estimate assumes:

- 122 additional convictions for identity theft, a Class D felony, with 61 offenders serving time in incarceration;
- 9 additional convictions for criminal simulation, a Class E felony, with 3 serving time in incarceration;
- 3 convictions for the new offense of trafficking in identity theft, a Class C felony with all serving time in incarceration;


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- Department of Safety will require an increase in recurring state expenditures of \$167,000 and a one-time increase of \$71,900 for additional positions (three for criminal investigation division and one for financial responsibility section);
- District Attorneys General Conference will require an increase in recurring state expenditures of \$274,000 and a one-time increase of \$7,500 for three assistant district attorneys general and two criminal investigators to prosecute additional cases resulting from additional arrests and referrals from law enforcement;
- District Public Defenders Conference will require an increase in recurring state expenditures of \$121,900 and a one-time increase of \$10,000 for two assistant public defenders for the increase in caseload.
- Imposition of civil penalties for improper disposal of records with identifying information will result in additional state revenues estimated to be not significant.

**Section 9-4-210, TCA, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated for operating cost, in current dollars, shall be based upon the highest cost of the next 10 years, beginning with the year the additional sentence to be served impacts the correctional facilities population.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director